

(iv) The project was treated and is in compliance with applicable HUD lead-based paint regulations (24 CFR parts 35 and 200, subpart O).

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§ 886.334 Execution of housing assistance payments contract.

(a) *Time of execution.* Upon acceptance of the unit(s) by HUD pursuant to § 886.333(f), the contract will be executed first by the Owner and then by HUD. The effective date must be no earlier than the HUD inspection which provides the basis for unconditional acceptance.

(b) *Changes in initial contract rents during rehabilitation.* (1) The Contract Rents established pursuant to § 886.310 and 24 CFR part 290 will be the Contract Rents on the effective date of the Contract except under the following circumstances:

(i) When, during rehabilitation, work items are discovered which could not reasonably have been anticipated by HUD or are necessitated by an unforeseen change in local codes or ordinances; were not listed in the work write-up prepared by HUD but are deemed by HUD, in writing, to be necessary work; and will require additional expenditures which would make the rehabilitations infeasible at the Contract Rents established in the Agreement. Under these circumstances, HUD will:

(A) Approve a change order to the rehabilitation contract, or amend the work write-up if there is no rehabilitation contract, specifying the additional work to be accomplished and the additional cost for this work,

(B) Recompute the Contract Rents, within the limits specified in paragraph (b)(4) of this section, based upon the revised cost estimate, and

(C) Prepare and execute an amendment to the Agreement stating the additional work required and the revised Contract Rents.

(ii) When the actual cost of the rehabilitation performed is less than that estimated in the calculation of Contract Rents for the Agreement.

(iii) When, due to unforeseen factors, the actual certified relocation payments made by the Owner to tempo-

rarily relocated Families varies from the cost estimated by HUD.

(2) Should changes occur as specified in paragraph (b)(1) (ii) or (iii) (either an increase or decrease), HUD may recalculate the Contract Rents and amend the Contract or Agreement, as appropriate, to reflect the revised rents. The rents shall not be recalculated based on increased costs to maintain rents at the Section 8 level during the rehabilitation period.

(3) HUD must review and approve the Owner's certification that the rehabilitation costs and relocation costs are the actual costs incurred.

(4) In establishing the revised Contract Rents, HUD must determine that the resulting Contract Rents plus an applicable Utility Allowances do not exceed the Fair Market Rent or the exception rent provided in § 886.310 in effect at the time of execution of the Agreement.

(c) *Unleased unit(s).* At the time the contract is executed, HUD will provide a list of dwelling unit(s) leased as of the effective date of the Contract and a list of the unit(s) not so leased, if any, and shall determine whether or not the owner has met the obligations with respect to any unleased unit(s) and for which of those unit(s) vacancy payments will be made by HUD. The owner must indicate in writing either concurrence with this determination or disagreement reserving all rights to claim vacancy payments for the unleased unit(s) pursuant to the contract, without prejudice by reason of the owner's signing the contract.

[44 FR 70365, Dec. 6, 1979, as amended at 48 FR 12711, Mar. 28, 1983; 49 FR 17449, Apr. 24, 1984; 65 FR 16427, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16427, Mar. 29, 2000, § 886.334 paragraph (b)(4) was amended by removing "Gross Rents" and adding "Contract Rents plus any applicable Utility Allowances" in its place, effective Apr. 28, 2000.

§ 886.335 HUD review of agreement and contract compliance.

HUD will review project operations at such intervals as it deems necessary to ensure that the owner is in full compliance with the terms and conditions of the contract, Regulatory Agreement, and Agreement to Enter into a